

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1587 OF 2015

Sarjerao @ Suryakant Uttamrao
Sathe & Ors.

.... **APPLICANTS**

V E R S U S

The State of Maharashtra

.... **RESPONDENT**

.....

Mr. M.P.Kale, Advocate for Applicants.

Mrs. Pratibha Bharad, A.P.P. for
Respondent – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 17th APRIL, 2015

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PER COURT :

1. The applicants are apprehending their arrest in connection with Crime No. 3029/2015 for the offences punishable u/s 3 (i) (v) and 3 (i) (x) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act [for short, 'Atrocity Act'] and u/s 294,427,447,323,504,506 read with 34 of the Indian Penal Code registered with police station Gangakhed, district Parbhani. Therefore, they are before this

Court by filing an application u/s 438 of the Code of Criminal Procedure.

2. Heard Mr. M.P.Kale, learned counsel for the applicants and Mrs. Pratibha Bharad, learned A.P.P. for respondent – State. She has also made available to the Court the investigation papers.

3. F.I.R. does not reflect or shows that any of the present applicant has used the abusive language against the first informant Sambhaji Santram Bhalerao or any of his family member in public view in the name of their caste. The allegations as are reflected in the F.I.R. are that the present applicants used abusive words, that by, *prima facie*, the offence u/s 3 (i) (x) of the Atrocity Act can not be said to have been committed, since the abusive words are not in the name of caste.

Further, though the first informant has claimed that the land in question is allotted to him and his family members by the Government, however, in the investigation papers there is nothing available on record to show or substantiate the said assertion made on the part of the first informant. On the contrary, Investigating Officer has sent letter to the Collector asking whether the land is being given to the first informant or not. Thus, on the date of filing of the F.I.R., the first informant was unable to point out that he is in possession of the disputed land and it was given to his family members by the Government.

4. Further, the allegations of the F.I.R. shows that only fist and kick blows were given to the first informant. For that custodial presence of the present applicants is not necessary.

5. Hence, I pass the following order :

(i) Present Criminal Application is hereby allowed.

(ii) In the event of their arrest, in connection with Crime No. 3029/2015 for the offences punishable u/s 3 (i) (v) and 3 (i) (x) of the Atrocity Act and u/s 294,427,447,323,504,506 read with 34 of the Indian Penal Code registered with police station Gangakhed, district Parbhani applicant No. 1 Sarjerao @ Suryakant Uttamrao Sathe, applicant No. 2 Arjun s/o Nivrutti Lomate, applicant No. 3 Bhimrao s/o Nivrutti Lomate and applicant No. 4 Nivrutti s/o Gunaji Lomate be released on anticipatory bail on they executing P.R. Bond of Rs. 5,000/- [Rupees Five Thousand] with one solvent surety of like amount by each of them.

(iii) Applicant Nos. 1 to 4 shall attend police station Gangakhed, district Parbhani once a week preferably on every Sunday between 10.00 a.m. and 2.00 p.m. till charge sheet is filed

(iv) With these observations, present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]

KNP/Cr.Apln. 1587.2015